

ORDINANCE #13194

AN ORDINANCE REWRITING ARTICLE III, CHAPTER 12 OF THE
DURHAM CITY CODE CAPTIONED "RULES AND REGULATIONS
FOR POLICE AND FIRE ALARM SYSTEMS"

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DURHAM:

SECTION 1. Article III, Chapter 12 of the Durham City Code Captioned "Rules and Regulations for Police and Fire Alarm Systems" is hereby repealed and rewritten as follows:

Article III. Rules and Regulations for Police and Fire Alarm Systems
Sec. 12-63. Definitions.

The following words and phrases shall have the meanings set forth herein unless the context clearly indicates otherwise:

Alarm System means sensors, controls and enunciators connected to detect and report an intrusion or emergency. This definition shall not include alarms which do not require a response from the police or fire departments, such as self-contained residential smoke detectors and vehicle alarms.

Alarm System Monitoring Company (or "monitoring company") means any business whose operation includes the monitoring of signals transmitted by an Alarm System.

Alarm System Installation Company (or "Installation Company") means any business whose operation includes the sale, lease or installation of Alarm Systems. **Alarm System Installation Company Registration Form** (or "registration form") means the form that must be obtained from City Manager.

Alarm System Permit (or "permit") means the permit obtained from the City Manager.

Alarm System Permit Application (or "application") means the permit application form, obtained from the City Manager and submitted by the Alarm System User to the City Manager.

Alarm System User (or "user") means any person, corporation, partnership, or governmental or educational entity that owns, leases, or occupies a property that utilizes an Alarm System.

Audible Alarm means any Alarm System that uses audible deterrents including but not limited to sirens and spoken warnings.

Automatic Telephone Dialing Devices means any Alarm System that automatically **contacts 911** or any other City department.

City Manager (or "Manager") means the Manager of the City, designee of the Manager or any person or department, designated by the City Manager, who would act on behalf

of the City Manager.

911 refers to the Emergency Communications Center that receives telephone requests or signal requests for police, fire, ambulance, rescue, or other emergency service within the county and city.

False Alarm means activation of an Alarm System that elicits a response by police, fire, or other emergency response units when no situation requiring such a response exists because the responding party finds no evidence of unauthorized intrusion, attempted unauthorized intrusion, robbery, attempted robbery, fire products of combustion or medical emergency. False Alarm includes accidental, avoidable, and unnecessary alarm activation due to user error, equipment malfunction, improper or unsuited equipment, but does not include alarm activation caused by violent conditions of nature or other extraordinary circumstances beyond the control of the Alarm System User.

Local Audible Alarm System means any alarm owned by an Alarm System User that, by sound of a whistle, bell, buzzer, siren or other noise generator, alerts those outside the home or building, and in the near vicinity, of a police or fire emergency, but does not transmit a signal by telephone or other communication device.

Sec. 12-64. Installation Company Registration and Alarm System Permits.

(A) *Generally.*

(1) Every **Alarm System Installation Company** providing services in the City of Durham shall register with the City. Registration forms may be obtained from City Manager.

(2) An **Alarm System User** may voluntarily obtain a permit from the City for each property that utilizes an Alarm System but obtaining such permit is not mandatory unless the User's Alarm System has generated a False Alarm. Permit application forms may be obtained from City Manager. The content and format of the **Alarm System Permit Application** shall be prescribed by the City Manager.

(a) Exception. The Alarm System User shall be required to obtain a permit when the user's Alarm System generated a False Alarm. Following such False Alarm, the City Manager shall provide written notice to the user that a permit is now required due to the False Alarm. Such notice shall provide that the user shall apply for the permit within 30 days of receiving the notification. Failure to comply with this subsection shall result in the assessment of civil penalties set forth in Section 12-64 (F)(l).

(B) *Installation Company Registration.*

(1) The **Alarm System Installation Company** registering with the City shall state on the registration form:

(a) The name, address, and telephone number of the **Alarm System Installation Company**;

(b) Requested information verifying that the **Alarm System Installation Company** has a state license in accordance with G.S. 74D-1 et seq.

(C) *Alarm System Permit Application.*

(1) The **Alarm System User** applying for the permit required herein shall state on the permit application form:

(a) The name, address and telephone number of the person(s) in control of the property on which the Alarm System is installed;

(b) The street address of the property on which the **Alarm System** has been or will be installed;

(c) The type of property (Commercial, Residential, Religious, or Governmental) on which the **Alarm System** will be installed;

(d) The name of the **Alarm System Installation Company** that has installed or will install the system; and,

(e) The name of the **Alarm System Monitoring Company** that will monitor the Alarm System.

(2) The **Alarm System User** shall update its **Alarm System Permit** as required by the City, at no additional cost to them.

(D) *Approval of Registration forms and Permit Applications*

(1) **Alarm System Permit Applications and Installation Company Registration Forms** shall be submitted to **City Manager**. The **City Manager** shall approve such applications and forms if it is determined that all applicable information required in this section has been provided. Upon approval of the permit application, a permit shall be issued.

(E) *Permit Available for Inspection on Premises*

(1) Each permit for a business, school, or religious facility shall be available at the premises wherein the **Alarm System** is installed and shall be available for inspection by the **City Manager** during normal hours of operation or when either the police or fire departments respond to an alarm at that location.

(2) Each permit for a residence shall be available at the premises wherein the **Alarm System** is installed and shall be available for inspection by the **City Manager** when either the police or fire departments respond to an alarm at that location.

(F) *Civil Penalties*

(1) Any **Alarm System User** required by Section 12-64(A)(2)(a) to obtain a permit and who fails to do so shall be assessed a civil penalty of one hundred dollars (\$100.00) per alarm call while the **Alarm System** is without said permit.

(2) Any **Alarm System Installation Company** who fails to register with the City as provided in this section shall be assessed a civil penalty of one hundred (\$100.00). The civil penalty assessed on the installation company is related to the failure to register and not the number of False Alarm calls.

Sec. 12-65. False Alarms.

The **Alarm System User** shall be assessed a civil penalty for each False Alarm received by **911** within the same calendar year based on the following schedule:

a. First and second false alarm	Written Notice
b. Third and fourth false alarm	\$100 each
c. Fifth and sixth false alarm	\$150 each
d. Seventh and eighth false alarm	\$200 each
e. Ninth false alarm	\$250 each
f. Tenth false alarm and everyone thereafter	\$300 each

The **User** is responsible for any and all **False Alarm(s)** generated by its **Alarm System** and all civil penalties assessed by this section regardless of whether or not an **Alarm System Permit** was issued. A notice shall be issued to the **Alarm System User** after the first and second **False Alarm**. These notices shall make the **User** aware of the consequences of any further **False Alarms** within the calendar year. These notices are intended to help the **User** address any controllable causes of **False Alarms** before additional **False Alarms** occur and civil penalties are assessed.

In the event an audible alarm has been activated and the user cannot be contacted or is unable or unwilling to deactivate said alarm, the City Manager reserves the right to disconnect any such Alarm System.

Signals or messages transmitted by the **Alarm System** during **Alarm System** testing procedures shall not be considered **False Alarms** if the **Alarm System User** or **Alarm System Installation Company** first notifies and receives permission from **911** before testing the Alarm System.

Sec. 12-66. Assessment of civil penalties

The **City Manager** shall assess civil penalties under the provisions of this article. An assessment notice shall be mailed to the **Alarm System User** at the address stated on the permit application and/or any other valid last known address made known to City Manager.

Sec. 12-67. Appeals.

(A) *Appeals process.*

Assessments of civil penalties and other enforcement decisions made under this article may be appealed by filing a written notice of appeal with the City Manager within 30 days after the date of notification of the assessment of civil penalties or other enforcement decision. The failure to give notice of appeal within this time period shall constitute a waiver of the right to contest the assessment of civil penalties or enforcement decision. Appeals shall be heard by the **City Manager**.

(B) *Appeal standard.*

The **City Manager** shall review an appeal from the assessment of civil penalties or other enforcement decisions using a preponderance of the evidence standard. Notwithstanding a determination that the preponderance of the evidence supports the assessment of civil penalties or other enforcement decision, the **City Manager** shall have the discretion to sustain, dismiss or reduce civil penalties, and sustain or reverse any other enforcement decision where warranted.

Sec. 12-68. Remedies; Enforcement Action

(A) Remedies

(1) A violation of this article does not constitute a misdemeanor as provided by O.S. 14-4. Except as provided in the sentence above, this article may be enforced by any of the remedies described in this article or otherwise authorized by common law or statute. Such statutes include but are not limited to O.S. 160A-175.

(B) Collection of civil penalties

(1) Civil penalties imposed by this article may be recovered by the city in a civil action in the nature of a debt if the person (**user or installation company**) in violation does not pay the same within a prescribed period set by the City Manager.

Sections 12-69-12-70. Reserved.

Section 2. This ordinance shall be in full force and effect from and on January 1, 2006.